

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT LEASE TO LEASE AGREEMENT (the "Third Amendment") is executed effective as of the 25 day of June, 2020 (the "Third Amendment Effective Date"), by and between PRI/19467 FISHER AVENUE LLC, a Maryland limited liability company, ("Landlord"), successor in interest to Milford Mill Limited Partnership, and MONTGOMERY COUNTY, MARYLAND ("County") (The Landlord and County together, the "Parties").

RECITALS:

WHEREAS, Landlord and Tenant are Parties to that certain Lease Agreement dated October 6, 2000, as amended by that certain First Amendment to Lease Agreement ("First Amendment") dated August 2, 2005, as amended by that certain Second Amendment to Lease Agreement ("Second Amendment") dated August 9, 2010 (collectively, the "Lease") whereby Tenant leases from Landlord approximately 7,000 square feet of retail space in the Poolesville Town Center ("Shopping Center") known as Stores 4, 5, 6, 7, 8 and 9, having an address of 19623, 19652, 19627, 19629, 19631 and 19633 Fisher Avenue, Poolesville, Maryland ("Leased Premises"); and

WHEREAS, the Extended Term is set to expire on June 30, 2020; and

WHEREAS, the Landlord and County desire to extend the term of the Leased Premises for an additional ten (10) year period, commencing July 1, 2020 and expiring on June 30, 2030; and

WHEREAS, Landlord and County desire to amend the Lease upon the terms, conditions, covenants and agreements set forth in this Third Amendment.

WITNESSETH:

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) in hand paid by each party to the other, the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties agree as follows.

1. **Definitions.** The recitals contained above are true to the best of the Parties' knowledge and are incorporated by reference herein. Any term used herein that is defined in the Lease shall have the same meaning as specified in the Lease unless otherwise specifically provided herein.

2. **Term.** Effective on the Third Amendment Effective Date, the following is deleted in its entirety and replaced with the following in Section 2 of the Lease:

"The Extended Term shall be revised so that the expiration date of the Extended Term shall be June 30, 2030 in lieu of June 30, 2010."

Effective as of the date hereof, the term of the Lease shall be extended for an

additional ten (10) years, commencing July 1, 2020 and ending June 30, 2030, which term shall be defined as the “Third Extended Term”.

3. **Rent.** Effective on the Third Amendment Effective Date, Section 3 of the Lease is amended and restated as follows:

During the first year of the Third Extended Term, the Base Rent for the lease year effective July 1, 2020 through June 30, 2021 shall be equal to One Hundred, Sixty-One Thousand Dollars (\$161,000.00) (“Base Annual Rent”), payable in equal monthly installments of Thirteen Thousand, Four Hundred Sixteen Dollars and Sixty-Seven Cents (\$13,416.67) (“Base Monthly Rent”).

4. **Rent Abatement.** In consideration for the County’s compliance with the terms and conditions set forth in the Lease as amended, the County shall only pay fifty percent (50%) of the Base Monthly Rent for the first ten (10) months of the Third Extended Term, effective July 1, 2020 through April 30, 2021, for a total rent abatement of Sixty-seven Thousand Eighty-One Dollars and Eight-Five Cents (\$67,081.85).

5. **Base Annual Rent Escalations.** Effective on the Third Amendment Effective Date, Sections 4.A. and 4.B. of the Lease are deleted in their entirety and replaced with the following:

- A. It is agreed between the Parties that the Base Annual Rent payable by County during the Third Extended Term shall be adjusted each lease year, beginning on 1st day of the second lease year, by the *lesser* of a) two and one-quarter percent (2.25%) or b) the CPI-U adjustment for the preceding year-over-year period, as defined in Paragraph 5.B. below.
- B. The CPI-U adjustment shall be determined using the following formula: The Annual Base Rent shall be multiplied by a fraction, the numerator of which shall be the index now known as the “U.S. Department of Labor, Bureau of Labor Statistics, Revised CPI-U. All Items, U.S. City Average, 1982-84=100” for the last month of the previous lease year, and denominator of which shall be said index for the month prior to the first month of the previous lease year.

Example:	Base Rent Year 1 beginning July 1, 2020:	\$161,000.00
	CPI Index for June 2021 (estimated):	248.181
	CPI Index for July 2020 (estimated):	244.250
	CPI-U Adjustment Calculation:	$248.181/244.250 = 1.61\%$

In the above scenario, the calculated CPI-U adjustment is estimated to be less than the 2.25% cap stated in Paragraph 5.A. Accordingly, the new Annual Base Rent effective July 1, 2021 would be \$163,591.16 (\$161,000 x 248.181/244.250 = \$163,591.16

6. **Tenant Improvements and Landlord's Renewal Work.** County is in possession of and has accepted the Leased Premises in its "as-is" condition. Landlord is under no obligation to make any structural or other alterations, decorations, additions, improvements, renovations or other changes in or to the Leased Premises except that Landlord, at its own cost and expense, shall perform, using Building standard processes, materials and finishes, the following work within and outside the Leased Premises: (a) replace all of the County's interior lighting with new LED lights, (b) install a new ADA compliant ramp by County's storefront entrance (which shall be separate from the below defined ADA Improvements), and (c) install a new bench at a mutually agreed to location near County's storefront entrance ((a), (b), (c), collectively, the "Landlord's Renewal Work"). County acknowledges and agrees that the Landlord's agents, employees and contractors shall have the right to enter the Leased Premises at a date and time designated by the County to conduct the Landlord's Renewal Work. Landlord shall use commercially reasonable efforts to avoid unreasonable disruption to Tenant's operations within the Leased Premises during the performance of Landlord's Renewal Work.

7. **ADA Improvements and Landlord Contribution.** As of the date of this Third Amendment, Landlord represents to the best of its knowledge that it has no legal obligation or responsibility to make any improvements or alterations to the exterior of the Property to comply with the Americans with Disabilities Act (ADA), it being understood and acknowledged that the Property was built prior to the ADA being enacted in 1990. County, conversely, makes no such representation and is making no implied or express representation or acknowledgement of the preceding sentence by signing this Third Amendment.

Notwithstanding the foregoing, Landlord expressly agrees to permit the County to perform exterior ADA Improvements in its discretion as generally outlined in the County's ADA survey report from August 2015 attached hereto as Exhibit A (the "ADA Improvements"), and to contribute up to Thirty-Five Thousand Dollars (\$35,000.00) towards the cost of the ADA Improvements. Prior to conducting the ADA Improvements, the County must submit all applicable plans and specifications to the Landlord for Landlord's approval, which shall not be unreasonably delayed, withheld, or conditioned. Additionally, the County shall submit all ADA Improvement plans to the applicable governmental authority for its review and approval. Upon final completion of the ADA Improvements by County, the County shall present proof of payment, along with all applicable lien waivers to Landlord. Within thirty (30) days of receipt of these documents, Landlord shall pay the County the sum of the amount paid by the County, as shown in the proof of payment and applicable lien waivers, not to exceed Thirty-Five Thousand Dollars (\$35,000.00).

Subject to force majeure events, in the event that all or a portion of the ADA Improvements are not performed within three (3) years after the Third Amendment Effective Date, Landlord shall have no further liability to the County to fund any such uncompleted ADA Improvements, it being understood that any remaining unused balance of ADA Improvements allowance shall be forfeited on the third anniversary of the Third Amendment Effective Date.

Notwithstanding the foregoing, to the extent any of the aforementioned ADA

Improvements trigger other ADA accessibility requirements, as determined by a federal, state, or local governmental authority or related third party with authority to enforce ADA compliance, or to the extent the specific use or occupancy of the Leased Premises or any action or inaction of County trigger other ADA accessibility requirements, then County shall be responsible, at its cost and expense, for such ADA accessibility work, but only insofar such work is required to comply with ADA laws. Additionally, County, at its sole cost and expense, shall be solely responsible for taking any and all measures to ensure its Leased Premises meets any ADA requirements.

8. **Option to Renew.** Provided that this Lease in in full force and effect and the County is not in default under any of the terms, conditions or provisions hereof, County shall have an option to extend this lease for two (2) additional five (5) year periods (each additional period being herein after referred to as the "Renewal Period"). The first and second Renewal Periods shall be exercisable by the County by providing written notice for the exercise of such renewal option to the Landlord at least one hundred eighty (180) days prior to the expiration of the then-current Lease Term. The County and Landlord agree that the rent payable by the County in the renewal options shall be based upon rates and concessions comparable to those in the Montgomery County retail market, provided that the rent payable in the first year of the Renewal Period is not less than two percent (2%) above the Base Annual Rent paid by the County in the last year of the then current Lease Term.

9. **Building Signage.** Effective on the Third Amendment Effective Date, Landlord, at its own cost and expense, recently erected a monument sign for the Shopping Center and has listed the County's name on the second panel of said sign. Landlord, at its own cost and expense, shall be responsible for maintaining the sign throughout the term of this Lease agreement and shall continue to provide the County with the exclusive use of and right to the second tenant panel on the newly erected monument sign, so long as the County remains a tenant operating its business (excluding any temporary closures due to renovation) at the Shopping Center.

10. **Brokers.** Landlord represents and warrants to County that Landlord has not employed any broker, agent or finder, in carrying on the negotiations relating to this Third Amendment, and Landlord will indemnify, defend and hold County harmless from any claims for commissions or fees due from any person claiming to represent Landlord. County represents and warrants to Landlord that County has not employed any broker, agent or finder, in carrying on the negotiations relating to this Third Amendment, and County will indemnify, defend and hold Landlord harmless from any claims for commissions or fees due from any person claiming to represent County.

11. **Landlord's Notice and Payment Address Changes.** Landlord's notice and payment addresses set forth in the Lease are hereby deleted and the following are substituted in lieu thereof:

"Landlord's Notice Addresses:

PRI/19647 FISHER AVENUE LLC

c/o Premier Management Services, LC
7910 Woodmont Avenue, Suite 1405
Bethesda, MD 20814
Attention: Adam K. Santos, VP

With copies to:

PRI/19647 FISHER AVENUE LLC
1518 K Street NW, Suite M100
Washington, DC 20005
Attention: Nicholas V. Papadopoulos

Landlord's Address for Payment of Rent:

If delivered via US Mail:

PRI/19647 FISHER AVENUE LLC
c/o Premier Management Services, LC
7910 Woodmont Ave, Suite 1405
Bethesda, MD 20814
Attention: Accounting

If delivered via overnight courier:

PRI/19647 FISHER AVENUE LLC
c/o Premier Management Services, LC
7910 Woodmont Ave, Suite 1405
Bethesda, MD 20814
Attention: Accounting

Or such other place as Landlord may designate from time to time.”

12. **Terms and Conditions.** This Third Amendment (including any and all exhibits, addenda and/or riders attached to this Third Amendment, each of which is hereby made a part of this Third Amendment with full force and effect as is set forth herein) contains the entire agreement of the Parties in regard to the Leased Premises and this Third Amendment. Except as amended hereby, all of the terms and conditions of the Lease shall be and remain in full force and effect.

13. **Ratification of Agreement.** This Third Amendment will not be binding upon any party until this document has been executed by all Parties thereto.

[signatures appear on following page]

IN WITNESS WHEREOF, Landlord and County have executed and delivered this
Third Amendment under seal on the date first above written.

Witness/Attest:

Julie White

COUNTY:

MONTGOMERY COUNTY,
MARYLAND

By: Jerome Fletcher
Name: Jerome Fletcher
Title: Asst. Chief Administrative Officer

Date: 6/25/20

APPROVED AS TO FORM AND
LEGALITY OFFICE OF THE
COUNTY ATTORNEY

RECOMMENDED

By: Neal Anker
Name: Neal Anker
Title: Associate County Attorney
Date: 6/19/20

By: Cynthia Brenneman
Name: Cynthia Brenneman
Title: Director Office of Real Estate
Date: 06/19/2020

Witness/Attest:

Katharine Decker Papadopoulos

LANDLORD:

PRI/19647 FISHER AVENUE LLC,
a Maryland limited liability company

By: Nicholas V Papadopoulos
Name: Nicholas V Papadopoulos
Title: PRESIDENT/PRE EM

Date: 6/10/20

EXHIBIT A
COUNTY ADA REPORT SURVEY